IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE EIGHTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 1909 of 1996

Between:

V.V.Subba Rao S/o. Kanakayya,
Engineer in M/s.A.P.State Agro Industries Development Corp. Ltd., Hyderabad

... PETITIONER

AND

1 A.P.State Agro Industries Development Corp. Ltd.,

rep.by its Managing Director.
2 Board of Directors, rep.by its Chairman,

M/s.A.P.State Agro Industries Development Corp. Ltd.,
Hyderabad.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of Certiorari or any other appropriate writ and quash the order of the 1st respondent bearing No.Per/AN(A)/JM/18359/88 dt: 20/6/94 and also the Appellate Authority's order bearing NO.PER/AM(A)/JM/18359/88 dt:10/8/95 and consequently direct the respondents to restore the petitioner to the post of the Area Manager with all consequential benefits and grant such other relief as it deems fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.V.VENKATARAMANA

Counsel for the Respondent No.1: MRS.P.BALARANI(NOT PRESENT)

Counsel for Respondent No.2: MR.MEHERCHAND NOORI

The Court made the following :

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ORAL ORDER:

This writ petition is filed challenging the order of the first respondent-Managing Director, A.P.State Agro Industries Development Corporation Limited, dated 20.06.1994, which was confirmed by the second respondent- Board of Directors of the Corporation, by its order dated 10.08.1995.

The petitioner, while working as Area Manager in the respondents' Corporation, was charge sheeted for certain irregularities committed by him, particularly, for the short fall of certain machinery and spare parts. After conducting a detailed nquiry into the matter, the enquiry officer found that the charge No.1, i.e. improper handling of delivery of machinery and spare parts and missing of certain spares of TG-90, was proved. Basing on the enquiry report, a show-cause notice was issued to the petitioner calling for his explanation, and the petitioner submitted his explanation stating that the finding recorded by the enquiry officer is not sustainable. Thereafter, the first respondent passed final orders dated 20.06.1994, imposing the punishment of reversion of the petitioner from the post of Area Manager to the lower grade, i.e. the post of Engineer. Aggrieved by the same, the petitioner preferred an appeal before the second respondent-Board of Directors of the Corporation, and on behalf of the second respondent, the Officer On Special Duty sent a letter dated 10.08.1995 to the petitioner informing that in the 170th meeting of the Board of Directors of the Corporation, held on 15.06.1995, the Board had discussed the matter and resolved that "the Board did not consider it necessary to interfere with the orders of reversion of the petitioner to a lower grade post and recovery of the value of the shortages arising out of the disciplinary proceedings passed by the competent authority". Aggrieved by the same, the present writ petition is filed.

Learned counsel for the petitioner states that in all, five charges have been framed against the petitioner, and the enquiry officer gave his report holding that the petitioner was guilty of only charge No.1, and charges 2 to 5 are not proved against him. Thereafter, basing on the enquiry report, a show-cause notice was issued to the petitioner, enclosing a statement showing the value of the short fall of the missing machinery and spare parts, and asking him to explain as to why he should not be reverted from the post of Area Manager to the lower grade post of Engineer. He further submits that the statement enclosed to the show-cause notice, showing the value of the short fall, was made only after the enquiry was over, and that he had no opportunity of cross-examining the management witnesses as to the value of the short fall and how they came to such a conclusion. He also submits that even assuming that the charge No.1 is proved against the petitioner, it was trivial in nature and the punishment of reversion does not warrant in the circumstances of the case.

I have gone through the entire record, i.e. report of the enquiry officer, order of the original authority dated 20.06.1994, and order of the appellate authority, dated 10.08.1995. Charge No.1 is to the effect that the petitioner improperly handled the delivery of machinery and spare parts and responsible for missing of certain spare parts of TG-90. So far as this charge is concerned, it was proved, and while issuing a show-cause notice, a statement showing the value of the missing machinery and spare parts was furnished to the petitioner. The petitioner submitted his explanation to the disciplinary authority, but the authority did not deviate from the finding of the enquiry officer, and came to the conclusion that since the charge No.1, which is very grave in nature, was proved and there was dereliction on the part of the petitioner in discharging his duties, and since the amount involved in it was about Rs.24,974/-, the petitioner deserves reversion to a lower grade post, as a measure of punishment for his grave mis-conduct, and accordingly, imposed the said punishment by its order dated 20.6.1994. On appeal preferred by the petitioner, the appellate authority i.e. Board of Directors, discussed the matter in its meeting and found that there was no necessity to interfere with the matter.

The only contention raised by the learned counsel for the petitioner was that the statement showing the value of the short fall material was furnished to him only at the time of issuing show-cause notice, but not before that. As seen from the enquiry report, the following items were found missing:-

"M/s.Premjit Sukhlal informed the Head Office through his letter dt.13.12.1988 (M.E.23) that the following equipments were wrongly taken by mistake, during May, 1988.

1. Hydraulic pump 5 Nos.

2. Clutch Housing 1 No.

3. Nozzle 2 Sets

The Area Manager, Narsaraopet, reported the Head Office on 20.1.1989 that in addition to the above equipment, the following additional spares were returned by Sri Premjit Sukhlal.

1. Nozzle Holders with Nozzle 2 Nos.

2. Rocker Assy. 1 No.

3. Push rods 8 Nos,"

Almost all the above items were enumerated in the statement appended to the show-cause notice showing the value thereof. Therefore, it cannot be said that the petitioner was not put on notice as to what are the items of machinery and spare parts that were found missing, and for which he was held responsible. Therefore, I am of the opinion that the petitioner has not made out any case to interfere into the order passed by the original authority, as confirmed by the appellate authority, imposing the punishment of reversion and also directing recovery of an amount of Rs.24,974/-, being the value of the missing material.

However, the learned counsel for the petitioner strenuously contended that the petitioner was reverted from the post of Area Manager to that of Engineer permanently, and as he is now aged about 54 years, he may not have any chance of being again promoted to the post of Area Manager, and therefore, the punishment of reversion permanently foreclosed his further promotion to the post of Area Manager, and that the reversion can be limited to a certain period, so that he can retire as Area Manager.

Considering the facts and circumstances of the case and the nature of duties entrusted to the petitioner, since the petitioner was not supposed to handle the spare parts directly, and though he was negligent in handling the machinery and spare parts, the punishment of reversion permanently can be said to be a punishment

which is disproportionate to that of the misconduct committed by him. It is also to be noted that the petitioner had already suffered the punishment of reversion for more than six years as on the date. Therefore, I am of the opinion that the order dated 20.06.1994 passed by the original authority, as confirmed by the appellate authority by the order dated 10.08.1995, reverting the petitioner permanently, needs to be restricted till December, 2004, and thereafter, the petitioner is entitled for promotion as Area Manager, the post which is held by him as on the date of the impugned order, if not already promoted to the said post in the mean while.

Writ petition is allowed to the extent indicated above. No costs.

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18th November, 2004.

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That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Thursday the Eighteenth day of November, 2004.

ASST.REGISTRAR

SECTION OFFICER

To

1. The Managing Director,

A.P.State Agro Industries Development Corp. Ltd.,

Hyderabad.

2. The Chairman,

M/s.A.P.State Agro Industries Development Corp. Ltd.,
Hyderabad.

3. Two C.D.copies